

**BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No: AL2005-119

GRACE K. KIM
5271 La Luna Drive
La Palma CA 90623


Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on the initial date of licensure

It is so ORDERED September 7, 2006



LUELLE GRANGAARD, PRESIDENT
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
3 California Department of Justice
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8 Attorneys for Complainant

9 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

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Respondent.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Heather Martin (Complainant) is the Executive Officer of the California Board of
21 Occupational Therapy. She brought this action solely in her official capacity and is represented
22 in this matter by Bill Lockyer, Attorney General of the State of California, by Susan Fitzgerald,
23 Deputy Attorney General.

24 2. Respondent Grace K. Kim (Respondent) is represented in this proceeding by
25 attorney A. Steven Frankel, Esq., whose address is 3527 Mt. Diablo Blvd., #269, Lafayette, CA
26 94549.

27 3. In or about mid-June, 2005, the California Board of Occupational Therapy,
28 Department of Consumer Affairs received an application for an Occupational Therapist license

1 from Grace K. Kim (Respondent). On or about June 15, 2005, Grace K. Kim certified under
2 penalty of perjury to the truthfulness of all statements, answers, and representations in the
3 application. The Board denied the application on October 18, 2005. Respondent timely appealed
4 the denial.

5 JURISDICTION

6 4. Statement of Issues No. AL2005-119 was filed before the California Board of
7 Occupational Therapy (Board), Department of Consumer Affairs, and is currently pending
8 against Respondent. The Statement of Issues and all other statutorily required documents were
9 properly served on Respondent on April 13, 2006. A copy of Statement of Issues No.
10 AL2005-119 is attached as exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Statement of Issues No. AL2005-119. Respondent has also carefully
14 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
19 the right to present evidence and to testify on her own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each
24 and every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each charge and allegation in Statement of Issues
27 No. AL2005-119.

28 ///

9. Respondent agrees that her application for an occupational therapist license is subject to denial, and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Occupational Therapy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Occupational Therapy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. Costs of investigation and prosecution of this case total to \$6,106.00 as of May 12, 2006.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that an occupational therapist license will be issued to Respondent Grace K. Kim and automatically revoked. The revocation will be stayed and the Respondent placed on five (5) years probation on the following terms and conditions:

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- 1 **1. Obey All Laws.** Respondent shall obey all federal, state and local laws and regulations
2 governing the practice of occupational therapy in California. Respondent shall submit, in
3 writing, a full detailed account of any and all violations of the law to the Board within five (5)
4 days of occurrence.
- 5 **2. Compliance with Probation and Quarterly Reporting.** Respondent shall fully comply
6 with the terms and conditions of probation established by the Board and shall cooperate with
7 representatives of the Board in its monitoring and investigation of the respondent's compliance
8 with probation. Respondent, within ten (10) days of completion of the quarter, shall submit
9 quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from
10 the Board.
- 11 **3. Personal Appearances.** Upon reasonable notice by the Board, respondent shall report to
12 and make personal appearances at times and locations as the Board may direct.
- 13 **4. Notification of Address and Telephone Number Change(s).** Respondent shall notify the
14 Board, in writing, within five (5) days of a change of residence or mailing address, of her new
15 address and any change in work and/or home telephone numbers.
- 16 **5. Tolling for Out-of-State Practice, Residence or In-State Non-Practice.** In the event
17 respondent should leave California to reside or to practice outside the State for more than thirty
18 (30) days, she shall notify the Board or its designee in writing within ten (10) days of the
19 dates of departure and return. All provisions of probation other than the quarterly report
20 requirements, examination requirements, and education requirements, shall be held in abeyance
21 until respondent resumes practice in California. All provisions of probation shall recommence
22 on the effective date of resumption of practice in California.
- 23 **6. Notification to Employer(s).** When currently employed or applying for employment in
24 any capacity in any health care profession respondent shall notify her employer of the
25 probationary status of respondent's license. This notification to the current employer shall occur
26 no later than the effective date of the Decision. Respondent shall notify any prospective health
27 care employer of her probationary status with the Board prior to accepting such employment.
28 This notification shall be made by providing the employer or prospective employer with a

1 copy of the Board's disciplinary Decision with attached Statement of Issues. Respondent shall
2 cause each health care employer to submit quarterly reports to the Board. The report shall be on
3 a form provided by the Board, and shall include a performance evaluation and such other
4 information as may be required by the Board.

5 Respondent shall notify the Board, in writing, within five (5) days of any change in
6 employment status. Respondent shall notify the Board, in writing, within five (5) days if she
7 is terminated from any occupational therapy or health care related employment with a full
8 explanation of the circumstances surrounding the termination.

9 **7. Employment Requirements and Limitations.** During probation, respondent
10 shall work in her licensed capacity in the State of California. This practice shall consist of no
11 less than twenty-four (24) cumulative months and of no less than twenty-five (25) hours per
12 week.

13 Respondent is currently employed by Gallagher Pediatric Therapy (GPT) in Fullerton,
14 California. GPT provides occupational therapy services at both its clinic and at local schools
15 with which it contracts. During the term of probation, Respondent may provide her services only
16 at GPT's clinic and schools within the following school districts: East Whittier City School
17 District, Little Lake Unified School District, Los Nietos Unified School District, South Whittier
18 School District, Whittier City School District,, and Whittier El Rancho Unified School District.

19 Respondent shall advise the Board or its designee of the names of the schools within the
20 above listed school districts to which she will provide services and must seek and obtain
21 approval from the Board or its designee before providing any services at any school.

22 Respondent shall provide a copy of the Decision and attached Statement of Issues in this
23 matter to each school district or school and assure that each school district or school provides
24 written acknowledgment of this notification directly to the Board.

25 Except as expressly allowed above, while on probation, respondent shall not work for a
26 registry or in any private duty position, except as approved, in writing, by the Board. Respondent
27 shall work only on a regularly assigned, identified, and pre-determined work site(s) and shall not
28 work in a float capacity except as approved, in writing, by the Board.

1 **8. Supervision Requirements.** Respondent shall obtain prior approval from the Board,
2 before commencing any employment, regarding the level of supervision provided to the
3 respondent while employed as an occupational therapist or occupational therapy assistant.

4 Respondent shall not function as a supervisor during the period of probation except as
5 approved, in writing, by the Board.

6 **9. Continuing Education Requirements.** Respondent shall complete continuing education
7 directly relevant to the violations as specified by the Board. Continuing education shall be
8 completed by December 31, 2006.

9 Continuing education shall be in addition to the professional development activities
10 required for license renewal. The courses shall be as follows: one course in ethics for 3 hours of
11 credit; one course in documentation for three (3) hours of credit; one course in clinical reasoning
12 for two (2) hours of credit; and one course in stress management for one (1) hour of credit.

13 Within thirty (30) days of the Board's written notification of the assigned course work,
14 respondent shall submit a written plan to comply with this requirement. The plan may include
15 "on-line" courses. The Board shall approve such plan prior to enrollment in any course of study.

16 Failure to satisfactorily complete the required continuing education as scheduled shall
17 constitute a violation of probation. Respondent is responsible for all costs of such
18 continuing education. Upon successful completion of the courses, respondent shall send the
19 original certificates she receives for successful completion of the courses to the Board, by
20 certified mail return receipt requested, within thirty (30) days of the completion of each course.

21 **10. Maintenance of Valid License.** Respondent shall, at all times while on probation,
22 maintain an active current license with the Board including any period during which license is
23 suspended or probation is tolled.

24 **11. Cost Recovery Requirements.** Respondent shall pay to the Board the costs of
25 investigation and enforcement of this case of \$6,106.00. Respondent shall make quarterly
26 payments to the Board to accompany each quarterly report (probationary condition #2) such that
27 the full amount of cost recovery is paid no later than six (6) months before termination of
28 probation. Failure to make payments timely shall be considered a violation of probation.

1 Except as provided above, the Board shall not renew or reinstate the license of any
2 respondent who has failed to pay all the costs as directed in the Decision in this case.

3 **12. Violation of Probation.** If respondent violates probation in any respect, the Board, after
4 giving respondent notice and opportunity to be heard, may revoke probation and carry out the
5 disciplinary order which was stayed. If an Accusation or Petition to Revoke Probation is filed
6 against respondent during probation, the Board shall have continuing jurisdiction until the matter
7 is final, and the period of probation shall be extended until the matter is final.

8 **13. Completion of Probation.** Respondent may not petition for early termination of probation.
9 She may petition for modification of probationary terms after completing three years of
10 probation. Upon successful completion of probation, respondent's license will be fully restored.

11 ACCEPTANCE

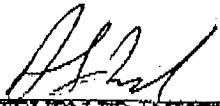
12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
13 fully discussed it with my attorney, A. Steven Frankel. I understand the stipulation and the
14 effect it will have on my application for licensure and subsequent license. I enter into this
15 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
16 to be bound by the Decision and Order of the California Board of Occupational Therapy.

17 DATED: 6/13/06

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19 
20 GRACE K. KIM
Respondent

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22 I have read and fully discussed with Respondent Grace K. Kim the terms and conditions
23 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I
24 approve its form and content.

25 DATED: 6/15/06

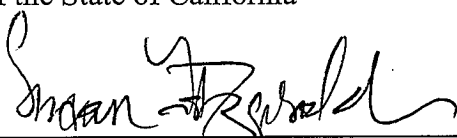
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27 
28 A. STEVEN FRANKEL, ESQ.
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the California Board of Occupational Therapy of the Department
4 of Consumer Affairs.

5 DATED: June 14, 2006.

6
7 BILL LOCKYER, Attorney General
8 of the State of California

9 
10 SUSAN FITZGERALD
11 Deputy Attorney General

12 Attorneys for Complainant
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